



[3510-16]

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Docket No.: PTO-P-2016-0008

Request for Information Related to Intellectual Property, Genetic Resources and Associated Traditional Knowledge

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for Comments.

SUMMARY: The United States Patent and Trademark Office (USPTO) is requesting information from its stakeholders regarding issues to be discussed in upcoming World Intellectual Property Organization (WIPO) meetings related to intellectual property, genetic resources, and associated traditional knowledge.

DATES: SUBMISSION DEADLINE DATE: To be ensured of consideration, submissions must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Written submissions should be sent by electronic mail over the Internet addressed to: InfoForWIPOIGC@uspto.gov. Submissions may also be submitted by postal mail addressed to: Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Karin Ferriter, Office of Policy and International Affairs. Although submissions may be sent by postal mail, the USPTO prefers to receive submissions by electronic mail message over the Internet because sharing submissions with the public is more easily accomplished.

Electronic submissions are preferred to be formatted in plain text, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Submissions not sent electronically should be on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format.

Timely filed submissions will be available for public inspection at the Office of Policy and International Affairs, currently located in Madison West, Tenth Floor, 600 Dulany Street, Alexandria, Virginia 22314. Submissions also will be available for viewing via the USPTO's Internet Web site (<http://www.uspto.gov/patents-getting-started/international-protection/patent-policy>). Because submissions will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included. It would be helpful to the USPTO if written submissions include the following information: (1) the name and affiliation of the individual responding; and (2) an indication of whether submissions

offered represent the views of the respondent's organization or are the respondent's personal views.

FOR FURTHER INFORMATION CONTACT: Karin Ferriter, Attorney-Advisor (telephone (571) 272-9300; electronic mail message Karin.Ferriter@uspto.gov) or Dominic Keating, Director, Intellectual Property Attaché Program (telephone (571) 272-9300; electronic mail message Dominic.Keating@uspto.gov), of the Office of Policy and International Affairs.

SUPPLEMENTARY INFORMATION: The World Intellectual Property Organization's (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) will conduct its thirtieth session from May 30 to June 3, 2016. The United States will participate in that meeting.

At the meeting, the IGC will continue a longstanding discussion as to whether WIPO members should require patent applicants to disclose the source or origin of traditional knowledge and genetic resources used in an invention, as well as practices to prevent the granting of patents for inventions that are not patentable. These discussions have included definitional issues, including the definitions of genetic resources and traditional knowledge. See <http://www.wipo.int/tk/en/igc/> for more information. Such practices include searching publicly available databases of genetic resource information and traditional knowledge.

The IGC decided to invite relevant parties to provide information that could aid the IGC in its deliberations. The USPTO welcomes comments from the public on issues related to these topics. Comments regard the issues below would be particularly helpful to the USPTO.

- Currently, several resources are available which enable USPTO patent examiners to search prior art traditional knowledge and medicine, many of which are also available to the public¹, and some of which are available only to patent examiners through the USPTO Science and Technology Information Center.
 - Are there additional databases with information about genetic resources and traditional knowledge that patent examiners should use to assess patentability?
 - What are the best practices for establishing such a database?
 - Before such a database is made publicly available, what steps should be taken to ensure that it does not include confidential information?
 - What studies have been done regarding national laws and practices that require patent applications to disclose the country of source or origin for genetic resources or traditional knowledge that may be implicated in the patent application?
- The meeting is also expected to consider a wide range of views among IGC delegations as to whether the intellectual property system should play a role in ensuring that researchers obtain informed consent before obtaining genetic resources or traditional knowledge from indigenous peoples.

¹ See <http://www.uspto.gov/patent/laws-and-regulations/comments-public/traditional-knowledge-and-medicine-resources>.

- What codes of conduct (e.g., University or industry regarding research), practices (e.g., State park procedures to obtain prior informed consent), and laws (e.g., tribal laws regarding sharing of culture and granting prior informed consent) are relevant to the protection of genetic resources and traditional knowledge?
- What studies have been done regarding national laws and practices requiring patent applications to disclose the country of source or origin for genetic resources or traditional knowledge?
- At various times, different IGC delegations have referred to the Universal Declaration of Human Rights, and to the United Nations Declaration on the Rights of Indigenous Peoples.
 - How, if at all, should these Declarations inform the discussions at the IGC?

Interested parties are invited to share their views on these matters. The information obtained can help ensure that the United States delegation has the most current views on relevant issues for discussion at the WIPO IGC meetings. Studies, citations of databases, codes of conduct, and laws that are provided in response to this notice may be collected

and submitted to WIPO for compilation as part of the reference materials for the WIPO IGC.

Dated: _March 18, 2016._____

Michelle K. Lee

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

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